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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/775,920	02/02/2001	James J. Alwan	100.718.419 (MIC- 77US)	8909

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EXAMINER	
MACCHIAROLO, PETER J	
ART UNIT	PAPER NUMBER
2879	

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/775,920

Applicant(s)

ALWAN, JAMES J.

Examiner

Peter J. Macchiarolo

Art Unit

2879

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 February 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s) _____.
13. ☐ Other: _____.


JOSEPH WILLIAMS
PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments have been fully considered but they are not persuasive.

Firstly, Applicant continues to allege that the instant specification does not disclose or suggest the method of selectively etching through the conductive and insulating layers as claimed.

The Examiner respectfully directs Applicant to the instant Specification, page two, the first full paragraph where the prior art etching process is discussed; "Then using a photolithographic process, the insulating layer and the conductive layer are etched to form the insulating and extraction structures 20, 22, respectively, which surround, but are spaced away from the micropoints 18 as shown in FIGURE 1." Applicant's claimed process of selectively etching through the insulating and extraction layers recites, "applying a layer of photoresist on said conductive layer, imaging said photoresist to define a pattern for said openings, developing the photoresist, and etching the pattern for the openings" (claim 21). Clearly, one of ordinary skill in the art will recognize that the prior art etching process reads on Applicant's claimed etching pattern through the conductive and insulating layers.


Further, since Applicant has failed to traverse the Examiner's rejection that this process is well known in the art (Final rejection, numbered paragraph 3), this is now considered fact and is a conventional process in the art.

Secondly, Applicant alleges that the teachings of Sandhu fail to disclose or suggest the teachings of the present invention; specifically that Sandhu requires a specialized apparatus for locally applying the wet etchant. The Examiner respectfully asserts that the claims are written in such a way that Sandhu does indeed meet the claimed limitations (see previous rejection). The claims do not differentiate from special equipment used or not used in the method.

Furthermore, nowhere in the instant specification, drawings, nor claims does Applicant disclose that a special apparatus is not needed for locally applying the wet etchant. Even if arguendo, Sandhu requires special equipment for the method of locally applying wet etchant, this is not supported in the disclosure.

Thirdly, Applicant alleges a prima facie case of obviousness was not made since the combination of applied references fail to disclose or suggest localized application of an etchant as set forth in the claims. The Examiner respectfully disagrees. Sandhu shows the wet etchant is confined and restricted to a localized area of the semiconductor. Since no special definition was given to the term, "locally applying," and given the accepted definition of the term "locally," Sandhu clearly shows localized application of a wet etchant.




JOSEPH WILLIAMS
PRIMARY EXAMINER